

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

PARALLEL NETWORKS, LLC

Plaintiff

vs.

ABERCROMBIE & FITCH, ET AL.

Defendants

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**CASE NO. 6:10cv111
PATENT CASE**

ORDER

Plaintiff Parallel Networks, LLC (“Parallel”) originally brought this case as four separate actions, naming over 100 defendants, and alleging infringement of United States Patent No. 6,446,111 (“the ‘111 Patent”) in all four cases. On March 1, 2011, the Court held a status conference in all four cases to discuss the most efficient manner in which to handle this case. Defendants suggested that three claim terms would be case dispositive for nearly all Defendants and requested an early claim construction and summary judgment hearing on these terms. Parallel acknowledged that certain terms would be important to its infringement case. Believing that construing these three limited terms early in the case could resolve several important issues, the Court set this case for an early *Markman* and summary judgment hearing.

On August 12, 2011, the Court issued its *Markman* opinion construing the three limited terms. Doc. No. 566, “CLAIM CONSTRUCTION ORDER”. Based on those constructions, the Court granted summary judgment of non-infringement to 99 of 112 Defendants. *Id.* at 16–17. Parallel then moved the Court pursuant to F.R.C.P. 59(e) to vacate its order granting summary judgment in

favor of 45 Defendants that had previously been granted summary judgment. MOTION at 1. The Court held a hearing and subsequently denied the motion. *See* (Doc. No. 619). To facilitate appeal of this Court's claim construction, Parallel requested—with respect to all Defendants that were granted summary judgment—that the Court: (1) sever those Defendants into a separate case; (2) dismiss those Defendants' counterclaims without prejudice; and (3) enter final judgment in the severed case. The Court agreed with Parallel's proposal and also indicated that to avoid piecemeal litigation, the Court would stay the remaining Defendants until Parallel either decides not to appeal this Court's constructions or the Federal Circuit renders its decision.

At the last hearing, the parties also indicated that there was disagreement regarding whether certain parties were subject to the Court's grant of summary judgement. Accordingly, the Court requested, and the parties submitted, a joint statement identifying three remaining disputes between Parallel and Google, Inc. ("Google"), Onestop Internet, Inc. ("Onestop"), and "Citizen Watch Company of America ("COA"). *See* Doc. No. 622. The parties also provided a list of Defendants that should be severed into a separate case and granted final judgment. *Id.* Parallel, Onestop and COA agree that the Court need not address these disputes prior to Parallel's appeal. *Id.* at 5–6. Google, however, requests that its dispute be resolved now. *Id.* at 1–5.

The issue between Google and Parallel is whether Google's Custom Search Engine ("CSE") was granted summary judgment or remains in the case. *Id.* at 1. Google contends that CSE was granted summary judgment in its entirety, while Parallel contends that the Court's summary judgment does not apply for claims 1, 2, 3, 5, 6, 14, 15, 17, 22, 23, and 26. *Id.* at 2–5. After review of the parties' contentions, the Court declines to resolve this issue at this time. Regardless of the Court's decision on this issue, Google will fall into the category of Defendants that will be stayed

and will not be severed and granted final judgment because Google was not granted summary judgment with regard to some of its other accused websites. *See* 622-2, EXHIBIT B. Once the Federal Circuit has rendered its decision regarding Parallel's appeal, the Court will, if necessary, entertain more thorough briefing on this issue.

Accordingly, the Court **SEVERES** the Defendants listed in Exhibit A attached to this Order, **DISMISSES** the severed Defendants' counterclaims without prejudice, and enters **FINAL JUDGMENT**.

As to the remaining Defendants listed in Exhibit B attached to this Order, the Court **STAYS** this case and **DENIES** all pending motions as **MOOT**, without prejudice to re-urging once the stay is lifted. Parallel is further **ORDERED** to keep the Court apprised of its decision to appeal this Court's claim constructions and any proceedings before the Court of Appeals for the Federal Circuit.

The Court notes that Parallel has filed separate motions regarding Defendants Walt Disney Online (Doc. No. 621) and Russell Brands (Doc. No. 620). Pursuant to the parties' agreement, Defendant Walt Disney Parks and Resorts Online and newly joined Defendant Disney Online will remain in the stayed case, 6:10-cv-111. Defendant Russell Brands and newly joined Defendant Brooks Sports, Inc. will be severed into the separate case.

So ORDERED and SIGNED this 12th day of January, 2012.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE

Exhibit A

EXHIBIT A**Group 1**

Party	Granted Summary Judgment
Abercrombie & Fitch Co.	www.abercrombie.com
adidas America, Inc.	www.adidas.com
Aéropostale, Inc.	www.aeropostale.com
Amazon.com, Inc.	www.amazon.com www.amazon.com (Today's Deals) www.amazon.com (Wishlist) Alexa.com "Graph Widget" A9.com
ASICS America Corporation	www.asicsamerica.com
Barnes & Noble, Inc. and Barnesandnoble.com, LLC	www.barnesandnoble.com my.barnesandnoble.com
Bentley Motors Inc. and Bentley Motors Ltd.	www.bentleymotors.com
Brain Busters, LLC	www.bustedtees.com
Brawn, LLC	www.undergear.com
Briggs & Stratton Corporation and Briggs & Stratton Power Products Group, LLC	www.homegeneratorsystems.com www.brutepower.com www.snapper.com www.simplicitymfg.com
Brooks Sports, Inc.	www.brooksrunning.com
Cabela's Inc.	www.cabelas.com
Citizen Watch Company of America, Inc.	www.citizenwatch.com www.bulovaspaceview.com www.campanola-timepieces.com www.citizen-signature.com www.citizen-systems.com
Coldwater Creek, Inc.	www.coldwatercreek.com
Delta Airlines, Inc.	www.delta.com
Dillard's, Inc.	www.dillards.com
Flairview Travel Pty Ltd.	www.hotelclub.com www.ratestogo.com
Flightbookers Ltd.	www.ebookers.com
Harley-Davidson, Inc. and H-D Michigan, Inc.	www.harley-davidson.com www.buell.com
Hayneedle, Inc.	www.hayneedle.com www.bedsidetables.com www.activitytableshop.com www.adirondackchairs.com, www.adjustablebarstools.com, www.adulttricyclesdirect.com, www.affordablefutons.com, www.abovegroundswimmingpools.com , www.activitytableshop.com, www.adirondackchairs.com, www.adjustablebarstools.com, www.adulttricyclesdirect.com , www.affordablefutons.com, www.allbiketrailers.com, www.allbraidedrugs.com, www.allespressomachines.com, www.allhydroponics.com,

EXHIBIT A**Group 1**

	www.allkayaksandcanoes.com , www.allmeatgrinders.com , www.alloutdoorbenches.com , www.allrecyclingbins.com , www.allsandboxes.com , www.alltopiaries.com , www.alltrashcans.com , www.alltvstands.com , www.allunicycles.com , www.allworkbenches.com , www.aquariumsdirect.com , www.babybathsuperstore.com , www.babybeddingalore.com , www.babygift.com , www.babymonitor.com , www.babyswings.com , www.backgammonplus.com , www.badmintonsource.com , www.bakersracks.com , www.banquettables.com , www.barstools.com , www.basketballgoals.com , www.bathroomlightingsource.com , www.bathroomvanities.com , www.beachchairs.com , www.beanbags.com , www.bedroomfurnituremart.com , www.bedsidetables.com , www.benches.com , www.binoculars.com , www.birdbaths.com , www.birdcages.com , www.bistrosets.com , www.bocceballsets.com , www.bookcasesgalore.com , www.bouncesuperstore.com , www.breastpumpsources.com , www.buyentertainmentcenters.com , www.candelabras.com , www.canopybed.com , www.canopycenter.com , www.carportsusa.com , www.carseatsuperstore.com , www.cartsandwagons.com , www.cedarchests.com , www.chaiselounges.com , www.chandeliersource.com , www.changingtablestore.com , www.chesssets.com , www.chickencoopsources.com , www.childrenschairs.com , www.childrensdesks.com , www.childrenstablesandchairs.com , www.chocolatefountains.com ,
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EXHIBIT A**Group 1**

	www.christeningshop.com , www.clawfoottubs.com , www.clockstyle.com , www.closetorganizersource.com , www.clothdiapers.com , www.clotheslinesource.com , www.clubchairs.com , www.coatracks.com , www.coffeemakers.com , www.coffeetablesgalore.com , www.compostbins.com , www.compostingtoiletstore.com , www.computerarmoires.com , www.computerdesks.com , www.contemporaryrugs.com , www.cornholeplus.com , www.cradlesandbassinets.com , www.cribs.com , www.croquet.com , www.cushionsgalore.com , www.dartboards.com , www.daybeds.com , www.desklamps.com , www.desksetshop.com , www.diaperbags.com , www.diningchairs.com , www.diningtables.com , www.directorchairs.com , www.doghouses.com , www.dogkennels.com , www.dollhousesgalore.com , www.doormatsource.com , www.draftingtables.com , www.dressers.com , www.easelsource.com , www.egardenbridges.com , www.ekitchenislands.com , www.electricbikesuperstore.com , www.electricfireplacesource.com , www.electricgrillsdirect.com , www.endtables.com , www.erockinghorses.com , www.esoccergoals.com , www.ewineracks.com , www.exercisebikes.com , www.filingcabinets.com , www.firepits.com , www.fireplacemantels.com , www.fireplacescreens.com , www.fireplacetoolsources.com , www.fireproofsafes.com , www.fitnessequipmentexpress.com , www.floorlampsgalore.com , www.fonduepots.com , www.fooddehydrators.com ,
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EXHIBIT A**Group 1**

	www.furnacefilters.com , www.garagestoragesource.com , www.gardenstatueshop.com , www.grandfatherclocks.com , www.greathomebars.com , www.greatpubtables.com , www.greatrusticfurniture.com , www.grillsdirect.com , www.halltrees.com , www.hammocks.com , www.handtrucks.com , www.headboardsource.com , www.hearthrugs.com , www.highchairstore.com , www.hockeynets.com , www.hometheaterseating.com , www.hosereelsource.com , www.ibattingcages.com , www.idogbeds.com , www.ilightingsource.com , www.inflatabletrampolines.com , www.inversiontables.com , www.ipendantlighting.com , www.ipetdoors.com , www.ipilatesreformers.com , www.ipitchingmachines.com , www.iroomdividers.com , www.itorches.com , www.itoyboxes.com , www.itoystorage.com , www.jewelryarmoire.com , www.jewelryboxes.com , www.jonboats.com , www.jukeboxes.com , www.justairhockeytables.com , www.justbabydiapers.com , www.justbabynursery.com , www.justbacklessbarstools.com , www.justbathroomcabinets.com , www.justbathroomfurniture.com , www.justbookends.com , www.justcounterstools.com , www.justcuckoooclocks.com , www.justdoublestrollers.com , www.justdowncomforters.com , www.justentrywayfurniture.com , www.justfoosballtables.com , www.justgreenhouses.com , www.justkitchentablesandchairs.com , www.justleatherbarstools.com , www.justmetalbarstools.com , www.justnightstands.com , www.justnurserygliders.com , www.justoutdoorbarstools.com ,
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EXHIBIT A**Group 1**

	www.juststoragebenches.com , www.juststoragesheds.com , www.juststrollers.com , www.justwoodbarstools.com , www.kidsfurnituremart.com , www.kidsrugshop.com , www.ladderballplus.com , www.lampsgalore.com , www.landscapelightingshop.com , www.lazysusans.com , www.leathersofas.com , www.magazineracks.com , www.medicinecabinetshop.com , www.moccasins.com , www.modelplanes.com , www.modernfurniture.com , www.moreofficefurniture.com , www.moresaunas.com , www.musicboxes.com , www.onlyarearugs.com , www.onlygloves.com , www.onlyoutdoorfountains.com , www.onlyslippers.com , www.orientalrugs.com , www.ottomans.com , www.outdoorart.com , www.outdoorcarpet.com , www.outdoorlightingplus.com , www.outdoorrugshop.com , www.paddleboatstore.com , www.pans.com , www.patiofurnitureusa.com , www.patioheaterstore.com , www.patioumbrellas.com , www.petcarriers.com , www.picnictablesdirect.com , www.pillowsuperstore.com , www.plantstands.com , www.playhouses.com , www.playkitchens.com , www.playpens.com , www.poolfurniture.com , www.pooltablelights.com , www.pooltoysource.com , www.porchswings.com , www.potracksgalore.com , www.pottingbenches.com , www.pressurecookersandcanners.com , www.quiltracks.com , www.rabbitcagesource.com , www.radarbusters.com , www.rainbarrelsource.com , www.reclinersplus.com , www.reelmowersource.com ,
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EXHIBIT A**Group 1**

	<p> www.ridingtoys.com, www.rockingchairs.com, www.rowingmachinesource.com, www.servingtrays.com, www.sewingtableshop.com, www.shagrugshop.com, www.showercurtainsgalore.com, www.silkpalms.com, www.simplyaccentchairs.com, www.simplyarbors.com, www.simplybeds.com, www.simplybunkbeds.com, www.simplyfountains.com, www.simplyhangers.com, www.simplykidsbeds.com, www.simplyloftbeds.com, www.simplymicroscopes.com, www.simplymirrors.com, www.simplyplanters.com, www.simplyplatformbeds.com, www.simplypondkits.com, www.simplytrellises.com, www.simplyvanities.com, www.skitube.com, www.sleds.com, www.smallappliancesource.com, www.sofatables.com, www.solarlightstore.com, www.spottingscopes.com, www.swingsetsource.com, www.swivelbarstoolstore.com, www.tabletenniszone.com, www.telescopes.com, www.tiffanylampsgalore.com, www.toddlerbeds.com, www.toiletseatsource.com, www.toolboxesdirect.com, www.tracklightingsource.com, www.trailerhitches.com, www.trampolinesplus.com, www.trundlebedsdirect.com, www.tvtraysource.com, www.videogamechairs.com, www.volleyballheadquarters.com, www.weatherinstruments.com, www.wickerfurniture.com, www.windchime.com, www.winecoolers.com, www.worldglobes.com, and www.wreathsgalore.com </p>
HSN Interactive LLC and HSN LP	<p> www.hsn.com www.jewelry.hsn.com www.fashion.hsn.com www.shoes-handbags.hsn.com www.home-decor.hsn.com </p>

EXHIBIT A**Group 1**

	www.home-solutions.hsn.com www.health-fitness.hsn.com
IAC Search & Media, Inc.	www.ask.com
Iconix Brand Group, Inc. and IP Holdings, Inc.	www.rocawear.com www.rampage.com www.danskin.com
J.C. Penney Corporation, Inc.	www.jcpenney.com
JAG Footwear, Accessories and Retail Corporation	www.anneklein.com www.jessicasimpsoncollection.com www.shoewoo.com/ (http://www.bandolino.com) www.ninewest.com/ www.jny.com www.easyspirit.com
JPMorgan Chase & Co.	www.chase.com
Juicy Couture, Inc. and Liz Claiborne, Inc.	www.juicycouture.com
Kmart Corporation; Sears Brands, LLC; Sears Holdings Corporation; Sears, Roebuck and Co.	www.craftsman.com www.kenmore.com www.thegreatindoors.com www.landsend.com www.sears.com www.searspartsdirect.com www.kmart.com
LG Electronics USA, Inc.	www.lg.com www.lghomnet.com
Lowes Home Centers, Inc.	www.lowes.com
Macy's West Stores, Inc. and Macys.com, Inc.	www.macys.com
Maghound Enterprises Inc.	www.maghound.com
MapQuest, Inc.	www.mapquest.com
Motorola Mobility, Inc.	www.motorola.com
Netflix, Inc.	www.netflix.com
New Balance Athletic Shoe, Inc.	www.newbalance.com www.shopnewbalance.com www.shopwarrior.com www.shoppfflyers.com
Nike, Inc.	www.nike.com
Nissan North America, Inc.	www.nissanusa.com
Nordstrom, Inc.	www.nordstrom.com
Office Depot, Inc.	www.officedepot.com
Onestop Internet, Inc.	www.rampage.com ; www.rocawear.com www.danskin.com
Oriental Trading Company, Inc.	www.orientaltrading.com
Patagonia, Inc.	www.patagonia.com
QVC, Inc.	www.qvc.com
Ralph Lauren Media, LLC	www.rugby.com
Recreational Equipment, Inc.	www.rei.com
Redbox Automated Retail, LLC	www.redbox.com
Russell Brands, LLC	www.russellathletic.com

EXHIBIT A**Group 1**

	www.jerzees.com www.russelloutdoorsgear.com
Southwest Airlines Co.	www.southwest.com
Staples, Inc.	www.staples.com
Subaru of America, Inc.	www.subaru.com www.subaru-msm.com/global www.robinamerica.com/global www.subaru-global.com/global
Sunglass Hut Trading, LLC	www.sunglasshut.com
Target Corporation	www.target.com
The Gap, Inc.	www.gap.com (including any subdomains), including without limitation athleta.gap.com (redirect from www.athleta.com), bananarepublic.gap.com (redirect from www.bananarepublic.com), oldnavy.gap.com (redirect from www.oldnavy.com), and piperlime.gap.com (redirect from www.piperlime.com)
The Goodyear Tire & Rubber Company	www.goodyear.com www.racegoodyear.com www.sava-tires.com www.kellytires.com www.goodyearaviation.com
Time Inc.	www.maghound.com www.coastalliving.com www.cookinglight.com www.myhomeideas.com www.ew.com www.essence.com www.instyle.com www.life.com www.carbloggers.com www.stylefeeder.com
Toyota Motor Sales USA, Inc.	www.toyota.com
TripAdvisor LLC	www.tripadvisor.com
US Airways, Inc.	www.usairways.com
VF Outdoor, Inc.	www.thenorthface.com
Victoria's Secret Direct Brand Management, LLC	www.victoriasssecret.com
Volkswagen Group of America, Inc., f/k/a Volkswagen Of America, Inc., and d/b/a Audi of America, Inc.	www.audiusa.com www.vw.com
Williams Sonoma, Inc.	www.williams-sonoma.com www.potterybarn.com www.potterybarnkids.com www.pbteen.com www.westelm.com www.wshome.com
Zappos Retail, Inc.	www.zappos.com my.zappos.com

EXHIBIT A

Group 1

	my.zappos.com/products
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Exhibit B

EXHIBIT B**Group 2**

Party	Denied Summary Judgment	Granted Summary Judgment
Andersen Windows, Inc.	www.andersenstormdoorsathomedepot.com	
AOL Inc.	www.dailyfinance.com (Example 1)	www.aol.com (autos.aol.com) mail.aol.com www.cambio.com www.dailyfinance.com (Example 2) www.seed.com www.winamp.com
Bass Pro Outdoors Online LLC	www.basspro.com	
BergdorfGoodman.com, LLC	www.bergdorfgoodman.com	
Bloomingdale's, Inc.	www.bloomingdales.com	
Brunswick Corporation and Brunswick Bowling & Billiards Corporation	www.bowlbrunswick.com www.bayliner.com	www.brunswickbilliards.com
Continental Airlines, Inc.	www.continental.com	
Disney Online		The following websites were not included in the Defendants' Summary Judgment Motion since the Court had not ruled on Parallel's Motion For Leave To Amend Infringement Contentions For Disney Online (Dkt. No. 401): www.toontown.com, www.piratesonline.com, www.babyzone.com, www.family.com www.familyfun.com See Joint Motion Of Plaintiff And Defendant Disney Online To Join Walt Disney Parks And Resorts Online As A Named Defendant In This Action regarding the stipulation regarding these websites.
Google Inc.	groups.google.com images.google.com www.google.com/cse/ (<i>disputed as to claims 1, 2, 3, 5, 6, 14, 15, 17, 22, 23, 26</i>)	www.google.com/adsense/ www.google.com/analytics/ www.google.com/calendar/ www.google.com/cse/ (<i>disputed as to claims 1, 2, 3, 5, 6, 14, 15, 17, 22, 23, 26; not disputed as to claims 10, 11, 13, and 19</i>) www.google.com/finance/ www.google.com/ig/ www.google.com/reader/ www.google.com/products/ www.google.com/shoppinglist/ adwords.google.com books.google.com checkout.google.com chrome.google.com/webstore docs.google.com mail.google.com Google Buzz maps.google.com picasa.google.com translate.google.com

EXHIBIT B**Group 2**

Party	Denied Summary Judgment	Granted Summary Judgment
		wave.google.com www.admob.com www.youtube.com local.google.com Gmail API Google Web Elements Google AJAX Search API Google AJAX Feeds API Google AJAX Language API Google Data API Google Earth API Google Visualization API Google Friend Connect API Google Auto Suggest Orkut Google Web Toolkit
Hasbro, Inc.	www.hubworld.com	www.hasbro.com
Jill Acquisition LLC	www.jill.com	
Kayak Software Corp.	www.kayak.com	
Musician's Friend, Inc.	www.musiciansfriend.com	
Nautica Apparel, Inc., and Nautica Retail USA, Inc.	www.nautica.com	
Orbitz, LLC; Orbitz Away, LLC; Orbitz Worldwide, Inc.; Orbitz Worldwide, LLC	www.adventurefinder.com www.gorp.com	www.cheaptickets.com www.eBookers.com www.orbitz.com www.trip.com
Shoebuy.com, Inc.	www.outletbuy.com www.shoebuy.com www.clothesbuy.com www.bagsbuy.com	
Sony Corporation of America and Sony Electronics Inc.	www.sonystyle.com	
The Neiman Marcus Group, Inc.	www.neimanmarcus.com (claims 1, 2, 5, 6, 14, 15, 17, 22, 23, 26)	www.neimanmarcus.com (claims 10, 11, 13, and 19)
Walt Disney Parks and Resorts Online	disneyparks.disney.go.com	disneyland.disney.go.com
Wolverine World Wide, Inc.	www.catfootwear.com www.chacosusa.com www.cushe.com www.hushpuppies.com www.merrell.com www.sebago.com www.wolverine.com	